

## **REMARKS**

### **Summary of the Official Action**

The forgoing Amendment and Remarks that follow are responsive to the Office Action mailed November 26, 2004. In that Office Action, the Examiner objected to the drawings indicating that in Fig. 5, “d<sub>4</sub>” should be labeled “d<sub>A</sub>”. In addition, the Examiner rejected Claims 1, 2 and 5 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 4,507,706 to Trexler, Jr. in view of U.S. Patent 5,702,076 to Humber. Claim 3 was rejected under 35 U.S.C. §103(a) as being unpatentable over Trexler combined with Humber and in further view of U.S. Patent 4,993,611 to Longo. Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Trexler combined with Humber and in further view of U.S. Patent 3,603,551 to Peterson.

### **Summary of Applicants Response**

By this Amendment, Applicant has cancelled Claim 2 and amended Claim 1. Applicant has also added Claims 6-10 to incorporate subject matter which is believed to be allowable over the relevant prior art references cited thereagainst. The proposed amendments are not believed to add new matter or necessitate further searching.

### **Objection to Figure 5**

*The Examiner objected to Fig. 5 indicating that the reference “d<sub>4</sub>” should be re-labeled “d<sub>A</sub>”.*

By this amendment, Applicant has submitted a replacement drawing sheet in order to address the Examiner’s objection. More specifically, Fig. 5 has been revised such that the diameter of the aperture recess, formerly labeled “d<sub>4</sub>”, is now be labeled “d<sub>A</sub>”.

### **The Present Invention as Recited in Amended Independent Claim 1**

Independent Claim 1 has been amended to incorporate the feature of cancelled Claim 2 and to clarify the novel features of the present invention in order avoid the cited prior art references. As recited in independent Claim 1 as amended, the present invention is directed to an automotive gauge mounting structure that is engageable to an automotive vehicle interior. In its broadest sense,

the structure comprises a bracket, at least one gauge receiving aperture formed in the bracket wherein the aperture defines a plurality of displaceable segments and recesses extending therebetween. The segments are displaceable in response to insertion of a gauge into the aperture for friction fit engagement of the gauge to the bracket. In addition, the bracket is configured such that for a gauge having a gauge diameter and a recess defining an aperture inner diameter, the aperture inner diameter is less than the gauge diameter.

**Rejection of Claim 1 under 35 U.S.C. §103(a)**

*Claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over Trexler in view of Humber.*

In the Office Action, the Examiner indicates that “Trexler discloses an automotive gauge mounting structure (10) engageable to an automotive vehicle interior, the structure comprising: a bracket (20); at least one gauge receiving aperture (22) formed in the bracket, and a gauge (12).” (Office Action, Page 3).

The Examiner indicates that “Trexler discloses the claimed invention except for the limitation of the aperture defining a plurality of displaceable segments.” The Examiner also indicates that “Humber teaches an insulator (10) for insertion into an aperture of a plate, the insulator including at least one receiving (22) formed in the bracket, the aperture defining a plurality of displaceable segments (18) and recesses extending there between, the segments being displaceable in response to insertion of a cylindrical object into the aperture for friction fit engagement, and wherein the recesses define a plurality of outer arcuate recesses and the displaceable segments define a plurality of displaceable inner arcuate segments disposed intermediate arcuate recesses.” (Office Action, Page 3).

The Examiner then indicates that “it would have been obvious to ... have included the insulator as taught by Humber for the purpose of providing a means of holding a cylindrical object such as a gauge rigidly in position and to accommodate different size gauges.” (Office Action, Page 3).

**Establishing a *Prima Facie* Case of Obviousness**

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there

must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d (BNA) 1438. Sources that may be used to provide a motivation to combine references include the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. *In re Rouffet*, 149 F.3d 1350, 1357, 47 U.S.P.Q.2d 1453, 1457-58.

Applicant respectfully submits that a *prima facie* case of obviousness has not been established based on the cited references. All of the pending claims are therefore believed to be allowable. Reconsideration and withdrawal of the 103 rejections is respectfully requested.

#### **No Motivation to Combine The Prior Art References**

Claim 1 is believed to be allowable because there is no motivation to combine Trexler with Humber. Trexler is understood to disclose a plug-in instrumentation system for vehicles that permits electrical, pressure and vacuum gauges to be interchangeably snap-in mounted into gauge locations formed in a housing. The instrumentation system of Trexler is understood to minimize assembly and installation time by reducing the number of connections to be made when assembling the system. Humber is understood to disclose an insulator for mounting pipe wherein the pipe insulator includes a generally cylindrical body that fits within a circular hole that is pre-punched into an intermediate planar portion of a sheet metal wall stud.

Firstly, Applicant submits that the difference in the nature of the problems to be solved in Trexler and Humber does not lead to any suggestion or motivation for combining Trexler with Humber. Humber is understood to solve the problem of "noise of water hammer" and also to eliminate the problem of "galvanic corrosion that might occur between the pipe and metal wall stud." (Col. 1; lines 26-29). Trexler is understood to solve the problem of "a 'bird's nest' of wires and hoses inevitably develop[ing] behind the dashboard". (Col. 1; lines 51-53). In contrast, Applicant's invention is understood to solve the problem of gauges being "difficult for the installer

to reach behind the [instrument mounting] bracket.” (Specification; Paragraph 0007). Furthermore, Applicant’s invention is also understood to solve the problem of “space availability” making it “difficult to [access] the gauge from the rear.” (Specification; Paragraph 0007).

Therefore, Applicant submits that the problem solved by Applicant’s invention (i.e., overcoming accessibility limitations in mounting instrument gauges) is *totally unrelated* to the problem solved by Humber (i.e., preventing the transmission of noise caused by water hammer and preventing galvanic corrosion between metal piping and wall studs). Furthermore, Applicant submits that the problem solved by Applicant’s invention (i.e., overcoming accessibility limitations in mounting instrument gauges) is *totally unrelated* to the problem solved by Trexler (i.e., avoiding a bird’s nest of wires and hoses developing behind the dashboard). Therefore, the problems solved by Trexler and Humber may not be used as a source to provide a motivation to combine these two references.

Secondly, Applicant submits that nothing in the disclosures of either Trexler or Humber can be interpreted as providing any suggestion or motivation to combine these two references. Trexler is understood to be silent with regard to the concept of a bracket having a gauge-receiving aperture defining a plurality of displaceable segments and recesses extending therebetween with the segments being displaceable in response to insertion of a gauge into the aperture for friction-fit engagement of the gauge to the bracket, as recited in amended Claim 1. Likewise, Applicant submits that Humber fails to disclose or even suggest these particular features of Claim 1. Therefore, neither Trexler nor Humber can be used as a source to provide a suggestion or motivation to combine these two references.

Finally, Applicant submits that knowledge that is generally available to one of ordinary skill in the art would not lead to a suggestion or motivation to combine Trexler with Humber. More specifically, Applicant submits that any specific understanding or principle within the knowledge of the skilled artisan would not have provided the motivation to include the insulator as taught by Humber for the purpose of providing a means for holding a cylindrical gauge rigidly in position as in Trexler. The mere fact that the gauges of Trexler are cylindrical and the pipes of Humber are also cylindrical is insufficient motivation to combine the two references.

Therefore, the combination of the plurality of displaceable segments as used in the plumbing installation of Humber with the mounting of various gauges as used in the vehicle

instrument panel of Trexler is impermissible. Because of Applicant's belief in a lack of any suggestion of motivation to combine Trexler with Humber to arrive at Applicant's invention, the Examiner's rejection of Claim 1 under 35 U.S.C. 103(a) is believed to be overcome.

Because amended independent Claim 1 is believed to be allowable, all of the claims depending therefrom, namely, amended Claims 3-5 and new Claims 6-10, are also believed to be allowable.

### **Conclusion**

In view of the foregoing, the application is believed to be in condition for allowance. Entry of the amendments and issuance of a Notice of Allowance is therefore respectfully requested. Should the Examiner have any suggestions for expediting allowance of the application, please contact Applicant(s) representative at the telephone number listed below.

If any additional fee is due, please charge deposit account 19-4330.

Respectfully submitted,

Date: January 13, 2005

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**IN THE DRAWINGS:**

Please consider the replacement drawing which is submitted herewith in order to address the Examiner's objection mentioned below. More specifically, Fig. 5 has been revised such that the diameter of the aperture recess, formerly labeled "d<sub>4</sub>", is now be labeled "d<sub>A</sub>".